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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,818

09/23/2005

Michel Baylot

33900-183PUS

1789

27799

7590

09/24/2007

COHEN, PONTANI, LIEBERMAN & PAVANE

551 FIFTH AVENUE

SUITE 1210

NEW YORK, NY 10176

EXAMINER

BASINGER, SHERMAN D

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

09/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/550,818

Applicant(s)

BAYLOT ET AL.

Examiner

Sherman D. Basinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 38-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-47 is/are rejected.
- 7) ☒ Claim(s) 48-74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/23/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The preliminary amendment filed September 23, 2005 has been received. While the preliminary amendment has been entered, it is pointed out that the amendment to the claims was not compliant with the advised amendment practice effective in 2003. For cancellation of claims 1-37 applicant should have used a parenthetical expression similar to: Claims 1-37 (canceled). This parenthetical expression should have appeared in the claims section where claims 38-74 appear.

### ***Specification***

2. In the specification the status of European patent application No. 0435802.6 (page 14, line 1) and European patent application 03/358003.6 (page 19, line 30 and page 29, line 17) should be made current. In the least the filing date for each should be inserted into the specification. If published, a copy of each is requested along with a copy of WO 03/65788 cited on page 44, line 2 of the specification. The examiner was able to obtain a copy of WO 00/49267 also cited on page 44, line 2 of the specification.

### ***Claim Objections***

3. Claims 48-74 are objected to under 37 CFR 1.75(c) as being in improper form because these claims refer to two sets of claims to different features. See MPEP

§ 608.01(n). Accordingly, the claim these claims have not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 38-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 38-46 are indefinite as failing because they merely recite a use without any active, positive steps delimiting how this use is actually practiced.

Because claim 47 incorporates claim 38, claim 47 is likewise indefinite.

6. In claim 47 "said liquefied compound" has no clear antecedent.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 38-47 are rejected under 35 U.S.C. 101 because claims 38-46 are not proper process claims as they merely recite a use without any active, positive steps delimiting how this use is actually practiced.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 38-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennett.

Note column 4, lines 59 and 60.

The immersed structure of claim 45 is 10.

The cable of claim 46 are the electrical cables between element 20 and battery 22.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2 063 776 in view of Bennett.

The fluid in tanks 7, which are the immersed casings, of GB 776 is not ammonia.

Bennett discloses the use of ammonia in his immersed casing. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use a mixture of ammonia and water in the tanks of GB 776 to provide buoyancy to the tanks in the manner taught by Bennett. This

would allow the bottles 8 of GB 776 to be deleted. As such remote control from moving nitrogen to the tanks 7 could also be deleted.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stangroom is cited because it uses fresh water in a balloon to lift a submerged object. Buecher is cited because the bag is collapsed in figure 6a. Graham is cited to show the anchor lines 33 and 34 which each extend to a winch on a surface vessel-see figure 2. Bossa is cited as to show ballast elements 5. Svanholm is cited to show the buoyancy body containing a multiplicity of relatively small pieces of expanded plastic. WO 82/01387 is cited to show the equipment for recovery of oil flowing out of tanks of a wrecked oil tanker. GB 2 071 020 is cited to show the ballast 95.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sherman Basinger/  
Sherman Basinger, PE  
Art Unit 3617

Thursday, September 13, 2007